

The Clean Water Council of New Jersey



Jessica Rittler Sanchez, PhD, Chair

Pamela S. Goodwin, Esquire, First Vice-Chair
Daniel J. Van Abs, PhD, Second Vice-Chair

17 November 2010

Bob Martin, Commissioner
NJ Department of Environmental Protection
PO Box 402
Trenton, NJ 08625-0402

Dear Commissioner Martin:

The Clean Water Council is pleased to submit for your consideration our **Recommendations for Water Infrastructure Management and Financing**, adopted at our meeting of November 9, 2010, after consideration of public testimony at our hearing of October 12, 2010. We are also providing these final recommendations to the Board of Public Utilities and the Department of Community Affairs, recognizing their critical roles regarding asset management financial controls. We thank you for your participation at the hearing, and for meeting with us in June to discuss the results of our 2009 hearing on climate change and our draft recommendations regarding asset management. We also thank Lee Solomon, President of the Board of Public Utilities, and Marc Pfeiffer, Deputy Director of the DCA Division of Local Government Services, for their participation and insightful comments.

Evidence is mounting regarding an alarming decline in the state of our water infrastructure – water supply, wastewater and stormwater. While some systems are doing a good job of maintaining the integrity of their infrastructure assets, many are not. Public attention to this issue is rising, as evidenced by efforts of the U.S. Chamber of Commerce to bring attention to the water infrastructure (including a November 23rd program with the Somerset County Business Partnership). In New Jersey, more attention is being focused on the dissolution of water utility authorities as a source of funding for the general municipal budgets. Municipal utility rates are rising even as their asset management efforts are stalled through the loss of these funds.

As you have recognized, poor asset management threatens both environmental quality and economic sustainability, and wastes both natural resources and scarce financial resources. The Clean Water Council calls upon the Department to work with its sister agencies, the federal government and water utility service providers of all kinds to implement these recommendations as quickly as possible. We recognize that doing so will not be easy, but not doing so will be worse. This work is critical, even in the midst of severe fiscal constraints.

Public testimony to the Clean Water Council shows support for immediate action to implement the Council's recommendations. A summary of public comments is enclosed for your review. Testimony raised specific points and clarifications that have been addressed in the final recommendations as appropriate. This authority over asset management is related to the public health and environmental purposes of water supply and wastewater infrastructure, to minimize

the risk of system failure due to infrastructure failure. One specific issue raised by testimony is that the Department has significant statutory mandates and authorities to ensure effective asset management from a structural perspective, even though the Department does not have authority over utility budgets. Existing permit requirements for both wastewater infrastructure and municipal stormwater systems include maintenance programs. Therefore, it is clear that the Department should continue and expand its efforts to ensure effective asset management for water supplies and sanitary wastewater systems.

Stormwater asset management is more difficult, for the lack of a regulatory systems or fee-based utilities that focus efforts. The Clean Water Council recommends Department action to improve asset management, but recognizes that this "forgotten infrastructure" will require a phased approach focusing on the most critical issues first. Correction and control of combined sewers, interconnections and cross-connections with sewer lines, localize street flooding and uncontrolled discharges that damage streams all should have higher priority initially than general maintenance. New Jersey should look to examples from other states, including the combined sewer overflow control strategies of our neighbors in New York City and Philadelphia, and the 38 states that have authorized formation of fee-based stormwater utilities (of which there are currently over 1,100). Technology and technical approaches are not the issue; what is missing is the will to succeed.

The challenges are significant, the costs of inaction are profound, the path is clear, and action is necessary. The Clean Water Council looks forward to working with you and the Department on this and other critical issues related to our mission. Please feel free to call upon us regarding this and any other issue for which we can assist the Department and New Jersey.

Sincerely yours,



Jessica Rittler Sanchez
Chair

C: Lori Grifa, Commissioner, NJDCA
Lee Solomon, President, BPU
Thomas H. Neff, Director, NJDCA-DLGS
Marc Pfeiffer, NJDCA-DLGS
John Plonski, Assistant Commissioner, NJDEP

Enclosure

Recommendations for Water Infrastructure Management and Financing

Summary of Public Oral and Written Testimony to the 2010 Public Hearing of the New Jersey Clean Water Council

1. **Bill Wolfe, PEER** – Concerned about the mention of “end of pipe” regulation – critical to environmental quality. Regulations can be used to the purpose. “Lowest lifecycle cost” is not the only objective. Also submitted a copy of a petition for rulemaking “to require disclosure, monitoring, treatment, and fee schedule to fully fund controls on currently unregulated drinking water contaminants.”
2. **Suzanne Chiavari, NJ American Water** – Fully support recommendations. Assets are closely related to energy use and environmental quality. Need to improve management skills and technology. Full cost pricing is critical to inform customers.
3. **Andrew Pappachen, Newark Watershed Conservation & Development Corp** – Important aspects of asset management involve utility maintenance workers who are not licensed operators and therefore do not necessarily take the courses that the operators do. Ongoing inspections, corrective maintenance, system monitoring all require involvement of staff other than the operators. The EIFP should allow costs of employee training for asset management activities. EIFP should also support installation of SCADA, GIS and GPS technology to improve facility management.
4. **Ellen Gulbinsky, AEA, and Robert Fischer, NJWEA** – Support NJCWC recommendations, and suggest the addition of Training and Education to the four elements from the 2008 hearings. Recommend mandating asset management using a phased approach with flexible regulations. Full cost pricing should be used. Public education will be needed to improve understanding and support. Disincentives for proper infrastructure management must be removed. Better budget oversight is needed for authority and municipal utility budgets. A-3088 (sponsored by Assemblyman McKeon) would help improve public oversight of any proposals to dissolve utility authorities, including NJDCA review to ensure continuation of services, bondholder rights and public comment. NJCWC should support this legislation. Further, the “Robert’s Law” provisions (NJSA 40A:5A-12.1) need defining regarding the 5% limit on transfer of funds from utility authorities to municipalities for property tax relief. The threshold is being exceeded and utility rates are being increased as a result.
5. **Jeff Tittel, Sierra Club** – NJ has been facing water problems for decades – the system is not in balance. Water supply planning is not there – ad hoc, not strategic. Improve conservation – utilities should be able to pay for conservation, and conserving users should not pay more. Protect water supply sources – water fee for open space. Be leery of privatization. But need investments. Prevent utility extensions to sensitive areas. Strategic plans needed.
6. **Wilma Frey, NJ Conservation Foundation** – Add green infrastructure as an issue, as an asset. Highlands RMP does this – should be used as a model.
7. **Jim Walsh, Food & Water Watch** – Concerned about privatization, especially public-private contracts, but also favors movement of private utilities to the public sector. Look toward dedicated fund and new federal funds.

8. **Dave Pringle, NJ Environmental Federation** – Generally support the recommendations. Current system is “penny wise, pound foolish.” Spend now, save billions of dollars later. Asset management should be mandated. The EIFP should be revised to allow planning grants to establish asset management. Impact fees should be considered. Green infrastructure benefits should be made explicit in the recommendations. Should acknowledge that there are good and bad utilities in both the public and private sectors.
9. **William Minervini** – Existing statutory authority and NJPDES permit requirements do provide for maintenance of wastewater and stormwater infrastructure, including collection systems, and the Council recommendations should reflect these requirements. Under N.J.S.A. 58:10A-6.f, NJPDES permits must require the permittee “at all times, to maintain in good working order and operate as effectively as possible, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.” NJPDES permits for sanitary wastewater systems currently include requirements for “proper operation and maintenance” which includes, among other things, “adequate funding,” “effective management,” and “regularly scheduled inspection and maintenance programs.” Operation and maintenance must include associated collection systems operated by the NJPDES permittee. For stormwater, the Tier A Municipal Stormwater General Permit includes a “Stormwater Facility Maintenance” provision (Part I.F.7.c), including a requirement that “Tier A Municipalities shall certify annually that all municipally owned and operated stormwater facilities are properly functioning in accordance with the minimum standard. Similar “Stormwater Facility Maintenance” requirements are in the NJPDES Highway Agency Stormwater General Permit and Public Complex Stormwater General Permit. Maintenance requirements also are contained in other regulatory provisions, such as Tier B municipal permits, NJDEP’s Land Use Regulations and the Residential Site Improvement Standards.
10. **John Marciszewski, Echologics** – Agrees with Recommendations that effective Asset Management is critical to managing life cycle costs for buried pipe infrastructure. Best In Class strategies integrate predictive maintenance and deploy capital resources based on true asset conditions. Notes that there are an average 25 main breaks per year for every 100 miles of pipe, at a repair cost of \$5,000 to \$20,000 each. Asset management needs to focus on better understanding infrastructure integrity; 50% of pipes being pulled from the ground today have remaining life. Too often, 80-90 year old pipes with remaining life are replaced, and 30 year old deteriorating pipes are left in the ground. Suggests looking to the work of innovators in Asset Management, including Las Vegas Valley Water District or East Bay Municipal Utilities District (California).
11. **Teresa L. Peterson, Chair of the New Jersey Section of the American Society of Civil Engineers 2010 Report Card Committees** – Supports Council recommendations. Utility rates must be set such that the utilities can recover both operating and capital budget expenditures. The practice of utility subsidizations is dangerous because the user is not permitted to value the service they receive. When a utility is well managed and rates are set adequately, we must protect these reserves from reallocation to municipal general budgets. We cannot “rob Peter to pay Paul.” It gives the public the impression that our water utilities are in good condition and do not require capital investments. It creates a disincentive to utilities which might otherwise adopt adequate rate structures. Utilities should be encouraged to maintain their own capital reserves for the timely completion of capital projects.